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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

-v.-

JAMES R. MCWILLIAM, CATHERINE O.
MCWILLIAM, NEW YORK STATE
DEPARTMENT OF TAXATION AND FINANCE,
NEWREZ LLC d/b/a/ SHELLPOINT
MORTGAGE SERVICING, and JOHN DOES 1-
10,

Defendants.

COMPLAINT

7:25 Civ. 4143

Plaintiff the United States of America (the “United States”), by its attorney, Jay Clayton, United States Attorney for the Southern District of New York, alleges upon information and belief as follows:

INTRODUCTION

1. This is a civil action brought by the United States on behalf of its agency, the Internal Revenue Service (“IRS”), to (a) reduce to judgment the assessments of certain federal tax liabilities of defendants James R. McWilliam and Catherine O. McWilliam (together, “Defendants”) for unpaid taxes, penalties, and interest provided by law; and (b) enforce and

foreclose on tax liens upon real property owned by the Defendants at 45 Wainwright Street, Rye, New York 10580 (the “Property”).

2. This action has been authorized and requested by a delegate of the Secretary of Treasury and is brought at the direction a delegate of the Attorney General of the United States pursuant to the provisions of 26 U.S.C. §§ 7401 and 7403.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1340 and 1345, and 26 U.S.C. §§ 7402(a) and 7403(a).

4. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and 1396 because Defendants reside in this District, the Property is located in this District, and the tax liabilities giving rise to this action accrued while the Defendants resided within this District.

PARTIES

5. Plaintiff is the United States of America.

6. Defendant James McWilliam is a natural person whose primary residence is 21 Willet Avenue, Apt 410, Port Chester, New York, 10573. Mr. McWilliam is married to Defendant Catherine McWilliam and co-owns the Property with her as tenants by the entirety.

7. Defendant Catherine McWilliam is a natural person whose primary residence is at the Property.

8. Defendant the New York State Department of Taxation and Finance (“New York Department of Taxation”) is a state agency with offices located at 1740 Broadway, New York, New York 10019. It is named as a party herein because it may have or claim to have an interest in the proceeds of any sale of the Property.

9. Defendant NewRez LLC d/b/a Shellpoint Mortgage Servicing (“Shellpoint”) is a Delaware limited liability corporation with its principal place of business located at 55 Beattie Place, Suite 10, Mail Stop 005, Greenville, South Carolina 29601. It is named as a party herein because it holds a mortgage on the Property and therefore, may have an interest in the proceeds of any sale of the Property.

10. Defendants John Does 1-10 are fictitious persons or entities, unknown to the United States, who may have or claim to have an interest in the Property or in this action.

FIRST CLAIM FOR RELIEF
(Reducing Tax Assessments to Judgment)

11. The United States repeats and re-alleges the allegations in paragraphs 1 through 10 as though set forth fully herein.

12. On the dates indicated below, a duly authorized delegate of the Secretary of Treasury made the following assessments against the Defendants for deficiencies in the payment of federal income taxes for the years 2009, 2010, and 2012, and for Mr. McWilliam for tax year 2010.¹ The outstanding obligations, which totaled \$1,219,197.45 as of February 24, 2025, are set forth in the following table, along with the dates on which the IRS filed Notices of Federal Tax liens in Westchester County against Defendants for tax years 2009, 2011, and 2012, and against Mr. McWilliam for tax year 2010.

¹ Mr. McWilliam is solely responsible for the 2010 deficiency as he filed his tax return as “Married Filing Separately” for that tax year.

Taxpayers	Tax Year	Assessment Date	Assessment Type	Original Assessed Tax Amount	Total Original Assessed Amount (with accruals)	Total Current Assessed Amount	Total Current Amount (with accruals to May 31, 2025)	Notice of Federal Tax Lien Filing
James and Catherine McWilliam	2009	7/13/2015	Self-reported tax	\$125,416.00	\$148,220.87	\$133,633.59	\$199,437.61	10/2/2019
James McWilliam	2010	6/15/2015	Self-reported tax	\$144,339.00	\$215,478.30			10/2/2019
James McWilliam	2010	5/9/2016	Unagreed deficiency	\$9,535.00	\$13,755.75	\$226,563.60	\$327,860.62	10/2/2019
James and Catherine McWilliam	2011	7/13/2015	Self-reported tax	\$171,542.00	\$205,484.03	\$249,029.85	\$360,409.51	10/2/2019
James and Catherine McWilliam	2012	6/8/2015	Self-reported tax	\$127,957.00	\$171,197.54			10/2/2019
James and Catherine McWilliam	2012	5/9/2016	Unagreed deficiency	\$37,569.00	\$54,475.05	\$211,018.54	\$319,982.52	10/2/2019
			Totals	\$616,358.00	\$808,611.54	\$820,245.58	\$1,207,690.26	

13. The total current amounts in the above table reflect unpaid assessed balances and accrued penalties and interest as of May 31, 2025. Interest, penalties, and other statutory additions are continuing to accrue on the outstanding obligations according to law.

14. On or about the dates of the assessments set forth in the above table, the IRS issued notices of assessment and demands for payment to the Defendants.

15. On October 1, 2019, the IRS issued collection due process liens and levy notices to the Defendants.

16. The Defendants failed to respond to these notices or otherwise pay the amounts due and the IRS undertook collection activity, including levies, seizure, and nominee liens.

17. The IRS has attempted to levy Mr. McWilliam's wages and other income, from Montefiore New Rochelle Hospital, from November 6, 2019, through June 30, 2020, and then from White Plains Hospital, beginning November 15, 2022. The IRS collected \$3,471.08 from

the levy on Mr. McWilliam's wages from Montefiore New Rochelle Hospital. The IRS collected \$272,890.85 from the levy on Mr. McWilliam's wages and other income from White Plains Hospital.

18. The IRS has also levied funds Defendants' account at USAA Bank, from which it collected \$240,916.97.

19. As of the date of this complaint, the IRS has collected a total of \$517,278.90 in levied funds. The IRS credited \$41,078.28 of the amount it collected through levies the Defendants' liability for tax year 2009 and credited a further \$33,792.93 to the Defendants' liability for tax year 2012. The IRS credited the remaining \$442,407.69 that it levied to the Defendants' tax liability for tax year 2013, which is not at issue in this case.

20. The IRS has made numerous other attempts to collect the foregoing tax liabilities through correspondence with the Defendants.

21. The Defendants have not filed federal income tax returns since tax year 2014.

22. By this action the United States seeks to reduce the aforementioned tax assessments to judgment.

**SECOND CLAIM FOR RELIEF
(Foreclosure on the Property)**

23. The allegations in paragraphs 1 through 21 above are repeated and realleged as though set forth fully herein.

24. The federal tax liens arising in favor of the United States, described above, attach to all property or rights to property the Defendants owned as of the dates of the corresponding federal tax assessments, and include their interest in the Property (as well as to all property or rights to property thereafter acquired). The federal tax liens remain attached to the Property as of the date of this complaint.

25. The federal tax liens have not been satisfied.

26. By this action the United States seeks to foreclose its liens against the Defendants' interest in the Property.

27. Upon information and belief, the Defendants are the sole owners of the Property.

28. The Defendants purchased the Property on or about August 3, 2005, for \$830,000.

They have owned the Property continuously since that date, and are its current owners.

29. To purchase the Property, the Defendants took out a loan from H&R Block Mortgage Corporation that was secured by a mortgage on the Property. The mortgage was recorded on October 3, 2005.

30. The mortgage was transferred to Shellpoint on or around March 1, 2025. The remaining balance on the mortgage is approximately \$574,704 as of March 3, 2025.

31. While the IRS has been levying Mr. McWilliam's wages, this levy is insufficient to recover the outstanding liabilities at issue. Specifically, the wage garnishment will not fully satisfy the full outstanding liability before June 8, 2025, which is when the statute of limitations for collecting part of the Defendants' 2012 liability may expire. As a result, without a foreclosure sale, the IRS is unlikely to recover full payment on the liabilities at issue within the collections period and will be substantially prejudiced.

32. The New York State Department of Taxation, Shellpoint, and Defendants John Does Nos. 1-10 are named herein because they may have, or may claim to have, interests in or liens on the Property, which may be affected by a foreclosure sale.

33. No other action has been commenced at law or otherwise for the recovery of this sum or any part thereof.

WHEREFORE, plaintiff the United States demands judgment:

- a) awarding the United States and reducing to judgment in its favor the amount of the assessed and accrued federal tax liabilities of the Defendants listed in paragraph 12 above, including taxes, penalties, interest, fees, and statutory additions, which, as of May 31, 2025, are expected to total \$879,829.64, plus interest, penalties, and statutory additions accruing thereon from May 31, 2025, to the date of judgment (less any payment made and accredited against the foregoing), for tax years 2009, 2011, and 2012;
- b) awarding the United States and reducing to judgment in its favor the amount of the assessed and accrued federal tax liabilities of Mr. McWilliam, listed in paragraph 12 above, including taxes, penalties, interest, fees, and statutory additions, which, as of May 31, 2025, are expected to total \$327,860.62, plus interest, penalties, and statutory additions accruing thereon from May 31, 2025, to the date of judgment, (less any payment made and accredited against the foregoing), for tax year 2010;
- c) declaring that the Defendants' interest in the Property is subject to valid and existing federal tax liens;
- d) declaring that with respect to the Defendants' interest in the Property, the Defendants, and all other persons whose interest is subordinate to or recorded after the attachment of the United States' liens, be forever barred and foreclosed from all right, title, claim, lien or other interest in the Property;
- e) directing the foreclosure of the federal tax liens upon the Defendants' interest in the Property and the sale of the entire Property by an officer of this Court, with the proceeds attributable to the Defendants' interest in the property to be applied to the debt due to the United

States under the liens, together with interest to the date of payment, plus costs and disbursements of this action;

f) adjudging the Defendants' liable for a deficiency judgment, in the event of a deficiency in the amount collected upon the sale of the Property, in the amount of any such deficiency; and

g) granting the United States its costs, disbursements, and such further relief against Defendants as the Court may deem just and proper.

Date: New York, New York
May 16, 2025

Respectfully submitted,

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